

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Christopher Wilkening,

Case No. 20-cv-1574 (PAM/ECW)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

US Department of Education et al.,

Defendants.

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In an Order dated November 16, 2021, this Court ordered Plaintiff Christopher Wilkening pursuant to Fed. R. Civ. P. 4(m) to effect service on Defendants and file proof that he had done so by December 3, 2021, or file a document with the Court showing cause as to why this case should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) on or before that date. (Dkt. 5.)

The December 3, 2021 deadline has now passed. Plaintiff has not filed proof of service or a document showing cause as to why this case should not be dismissed pursuant to Fed. R. Civ. P. 41(b). Indeed, the November 16, 2021 Order was returned to the Clerk's Office on November 22, 2021 as undeliverable because Plaintiff apparently has moved without updating his address with the Court, and his mail is not being forwarded. "Courts have repeatedly recognized that dismissal for failure to prosecute is appropriate where a plaintiff effectively disappears by failing to provide a current address at which he or she can be reached." *Jackson v. Brown*, No. 18-CV-2567 (WMW/LIB),

2020 WL 1236708, at \*2 (D. Minn. Jan. 3, 2020), *R. & R. adopted*, No. 18-CV-2567

(WMW/LIB), 2020 WL 1236562 (D. Minn. Mar. 13, 2020) (collecting cases).

Accordingly, this Court now recommends, in accordance with its prior Order and also due to Plaintiff's failure to inform the Court of his current address, that this action be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### **RECOMMENDATION**

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS RECOMMENDED THAT** this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: December 13, 2021

*s/Elizabeth Cowan Wright*  
ELIZABETH COWAN WRIGHT  
United States Magistrate Judge